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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	CR 10 - 0588 EJD
)	
Plaintiff,)	UNITED STATES' <u>EX PARTE</u>
)	REQUEST TO DISCLOSE GRAND JURY
v.)	TRANSCRIPT; [PROPOSED]
)	ORDER
)	
JOSEPH J. VIOLA,)	
aka GIUSEPPE VIOLA)	
)	
Defendant.)	
)	

Pursuant to Rule 6(e)(3)(E)(i) of the Federal Rules of Criminal Procedure, the United States hereby makes this ex parte request to disclose the transcript of Frank J. Racioppo, Jr. and all exhibits thereto, to the defendant Joseph J. Viola.

The government has determined that Mr. Racioppo may be called by the government as a witness in its case-in-chief in the forthcoming trial in this matter, such that Mr. Racioppo's testimony before the grand jury would constitute a prior statement of a government witness under Rule 26.2 of the Federal Rules of Criminal Procedure and the Jencks Act.

Therefore, pursuant to Rule 26.2, the Jencks Act, and for the reasons and case law cited in the government's September 1, 2011 response to the defendant's request for grand jury

USA EX PARTE REQUEST; [PROPOSED] ORDER
CR-10-0588 EJD

1 transcripts, the United States hereby requests permission and authority from this Court to
2 disclose the subject transcript, with all subject exhibits, in accord with Rule 6(e)(3)(E)(i), which
3 authorizes disclosure of a grand jury matter “preliminarily to or in connection with a judicial
4 proceeding.”

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6 Date: September 21, 2011

7 Respectfully Submitted,

8 MELINDA HAAG
9 UNITED STATES ATTORNEY

10
11 /s
12 THOMAS E. STEVENS
13 TIMOTHY J. LUCEY
14 Assistant United States Attorneys

15 IT IS SO ORDERED.

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17 Dated: September 22, 2011

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19 HON. EDWARD J. DAVILA
20 United States District Court
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**UNITED STATES' EX PARTE REQUEST TO DISCLOSE GRAND JURY
TRANSCRIPT; [PROPOSED] ORDER**

in the case of **UNITED STATES v. JOSEPH J. VIOLA**, **CR 10-0588 EJD** to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

_____ (By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

_____ (By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

 X (By Regular Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

_____ (By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

Dated: September 21, 2011

USA EX PARTE REQUEST; [PROPOSED] ORDER
CR-10-0588 EJD

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

USA

Plaintiff,

v.

Joseph J. Viola

Defendant.

Case Number: CR10-00588 EJD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 23, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Joseph J. Viola
Alameda County Jail
ULU187
550 6th St., 4A 11
Oakland, CA 94607

Dated: September 23, 2011

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk